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2 UNITED STATES DISTRICT COURT  
3 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

4 ERVIN BANKS,

5 Plaintiff,

6 v.

7 KENT W. UNDERWOOD,

8 Defendant.

CASE NO. C13-5984 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

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10 This matter comes before the Court on the Report and Recommendation ("R&R")  
11 of the Honorable Karen L. Strombom, United States Magistrate Judge. Dkt. 5. The Court  
12 having considered the R&R and the remaining record, and no objections having been  
13 filed, does hereby find and order as follows:

- 14 (1) The R&R is **ADOPTED**;
- 15 (2) This action is **DISMISSED without prejudice** prior to service for failure  
16 to state a claim; and
- 17 (3) Plaintiff's application to proceed in forma pauperis is **DENIED**.

18 Dated this 23rd day January, 2014.

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21 BENJAMIN H. SETTLE  
22 United States District Judge